

YOUNG, SHERON

From: _Regulatory Comments
Sent: Tuesday, September 27, 2005 2:17 PM
To: YOUNG, SHERON
Subject: FW: Comment - 12 CFR Part 741

From: Kevin Foster-Keddie [mailto:KFoster-Keddie@wsecu.org]
Sent: Tuesday, September 27, 2005 1:46 PM
To: _Regulatory Comments
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Sept. 27 2005

Mary Rupp, Secretary of the Board
NCUA
1775 Duke St.
Alexandria, VA 22314-3428

Dear Secretary Rupp:

Thank you for the opportunity to comment on proposed rule 741.8. Washington State Employees Credit Union is a \$1 billion state-chartered CU with a partner CUSO headquartered in Olympia, WA.

We respectfully submit the following comments.

We believe that for NCUA to impose any of the requirements on state-chartered CUs in 712.3 other than the corporate structure requirement would be an inappropriate encroachment by NCUA on the realm of state-chartered CU/CUSO structure and activities.

NCUA's interest with CUSOs should be their financial impact (including potential liability) on CUs. As written on page 8 of the notice: "NCUA is concerned about the potential liability for state-chartered credit unions, and the resulting potential liability for the NCUSIF, if their CUSOs do not observe corporate separateness." What the Administration is requesting comment on appears to be requirements that go beyond corporate separateness.

It is appropriate for NCUA to be concerned about the potential liability to a CU arising from CUSO operations. That is the important purpose of the "separate identities" requirements of 712.4. However, if a CU and CUSO satisfy the requirements for corporate separateness as outlined in 712.4, then the CUSO should not present any potential liability to the CU. The CU's only exposure (aside from reputation issues) should be the potential loss of its investment.

The rules of Section 712.3 include: a) requirement to be structured as a corporation, LLC, or limited partnership; b) customer base limitation - CUSO must "primarily serve" CU's, the owning CU's members, or contracting CU members; c) CU accounting for CUSO investment; d) CUSO accounting,

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audits, and financial statements, NCUA access to CUSO books, records, and internal control info. Of these requirements, the "structural" requirement is relevant, and in fact is necessary to the "corporate separateness". Also, if a CU has to follow GAAP, then its accounting for the CUSO investment will have to follow GAAP.

We believe that as long as there is corporate separateness, a CUSO's customer base and/or purpose will have no impact on potential liability of the CU or risk to the NCUSIF. If a state permits CUSOs to serve 66 percent nonmembers, or to provide service to leagues instead of CU's, NCUA should not interfere in that state's decision. Similarly, the CUSO's accounting will not cause any risk to the CU and NCUSIF beyond the amount of the CU's investment in the CUSO. As long as a CU and a CUSO fully meet the definition and standards of "corporate separateness" we believe there is no increased risk to the NCUSIF regardless of a CUSO's accounting practices.

In closing, WSECU believes it could be appropriate for the NCUA to require CUSOs of state-chartered CUs to follow 712.3(a) and (c), but not (b) or (d).

Thank you once again for the opportunity to provide comment to the proposed rule.

Sincerely,

Kevin Foster-Keddie
President
WSECU